

BEFORE THE  
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 207

Served October 8, 1962

IN THE MATTER OF:

W M A Transit Company, D. C.	)	
Transit System, Inc. and	)	
D. C. Transit System of	)	
Maryland, Inc.	)	
	)	
vs.	)	
	)	Formal Complaint No. 3
Randolph P. Owens, Jr ,	)	Formal Complaint No. 6
t/a O and K Bus Service	)	Docket No. 27

APPEARANCES:

Stanley Kamerow, attorney for W M A Transit Company, complainant.

John R. Sims, Jr., attorney for D. C. Transit System, Inc. and D. C. Transit System of Maryland, Inc., complainant.

Parnell E. Allen, attorney for the respondent.

The W M A Transit Company filed a formal complaint against Randolph P. Owens, Jr., t/a O and K Bus Service, alleging that Owens engaged in transportation subject to the Compact on or about a certain date without having been issued a certificate of public convenience and necessity by this Commission to authorize such transportation.

Subsequently, D. C. Transit System, Inc. and D. C. Transit System of Maryland, Inc. filed a formal complaint against Randolph P. Owens, Jr., t/a O and K Bus Service, alleging that Owens engaged in transportation subject to the Compact on or about a certain date without having been issued a certificate of public convenience and necessity by this Commission to authorize such transportation.

Both complaints, in essence, seek the Commission to issue a cease and desist order against Randolph P. Owens.

Copies of the complaints were served upon Owens. Upon the failure of Owens to answer, the Commission viewed such failure as a denial of each and every allegation set forth in the complaints, and ordered the matters to hearing. For purpose of hearing and decision, the complaints were consolidated. The hearing was held on September 12, 1962, before Examiner Russell W. Cunningham.

#### FACTS OF THE CASE

Complainant, W M A Transit Company, presented testimony that one of its employees received an inquiry as to whether W M A was going to provide the bus for a group that planned to charter a bus for a hospital benefit that the group was planning. The employee told the group that W M A had not been requested to provide the service but would be happy to do so. However, the Company had no further communication from the group. Several days later, the same employee observed a bus, owned and licensed by Randolph P. Owens, in the District of Columbia, and proceeded to follow it to a shopping center in Marlowe Heights, Maryland, where it unloaded a group of adults. The employee had no knowledge of what compensation, if any, was rendered for the use of the bus, nor had he any knowledge of who or what group actually used the bus.

The respondent testified that he had been requested to provide a bus by a group that was planning a hospital benefit, that he had provided the bus free of charge, that none of his employees had driven the bus, and stated emphatically that he had received no compensation whatsoever. He also revealed that he keeps a record of all compensation received for transportation that he renders.

Complainant, D. C. Transit, presented testimony that a college student called its sales department one evening, stated that a class had chartered three buses for that evening, and that they had failed to appear; that the sales department checked its orders and could not locate the request, and so informed the student. The testimony reveals that the youth then ordered one bus from complainant, which was dispatched immediately to the college campus, as was a Company supervisor to oversee the loading and to handle other allied details. While the supervisor was on the campus, three empty buses appeared and parked for approximately five minutes, then pulled away, still empty. The buses displayed the phrase, "O and K Bus Service."

At the conclusion of the presentation by complainant, D. C. Transit, the respondent moved to dismiss its complaint.

#### ISSUE

Did respondent illegally transport passengers for hire?

OPINION

The Commission is of the opinion that he did not illegally transport passengers for hire. The sum of W M A's complaint is that a bus was observed carrying people in the District of Columbia and Maryland, that those people disembarked in Maryland, and that the bus was the property of Randolph P. Owens, Jr., the respondent. While this evidence, alone and uncontradicted, may be a presumption of a compensatory movement, it cannot so stand, alone and unsubstantiated, in the face of uncontradicted testimony that the use of the vehicle was a donation to a charitable cause, free of any charge.

The evidence presented by D. C. Transit is equally deficient. While one may conjecture as to why three buses belonging to Owens were on the campus, at the exact time for which someone had ordered three buses, presumably from D. C. Transit, which, however, knew nothing of the request, the fact is that there is no evidence that Owens actually transported passengers for hire.

Thus, the evidence offers no ground for the finding that Randolph P. Owens, Jr. illegally transported passengers for hire, nor for the entering of a cease and desist order. The complaints should be dismissed.

THEREFORE, IT IS ORDERED that the formal complaint of W M A Transit Company and the formal complaint of D. C. Transit System, Inc. and D. C. Transit System of Maryland, Inc. against Randolph P. Owens, t/a O and K Bus Service, be, and they are hereby, dismissed.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in dark ink, appearing to read "Delmer Ison", written in a cursive style.

DELMER ISON  
Executive Director